

3006194-LRB/SJE

**DECEMBER 23, 2007**

**MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

**07 C 7215**

LEWIS HERRING, )  
Plaintiff, )  
v. ) No.  
RICHARD MARR and )  
FFE TRANSPORTATION SERVICES, INC.)  
Defendants. )

**JUDGE GUZMAN  
MAGISTRATE JUDGE COX**

**NOTICE OF REMOVAL**

NOW COME the defendants, FFE TRANSPORTATION SERVICES, INC. and RICHARD MARR, by their attorneys, LEW R.C. BRICKER, SANDRA J. ENGELKING, and SMITHAMUNDSEN LLC, and pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, remove this action to the United States District Court for the Northern District of Illinois, Eastern Division, and in support thereof, state as follows:

1. The movants' Notice of Removal is based upon subject matter jurisdiction conferred by diversity of citizenship, as established in 28 U.S.C., §1332.
2. Upon information and belief, the named plaintiff is a citizen and resident of the State of Georgia or the State of Florida. (See the Illinois Traffic Crash Report attached as Exhibit "A" and Affidavit of Sandra J. Engelking attached as Exhibit "B".)
3. The defendant, RICHARD MARR, is a resident and citizen of the State of Colorado. (See Affidavit of Richard Marr attached as Exhibit "C".) At the time of the occurrence, Mr. Marr was a resident and citizen of the State of Arizona. (See Exhibits "A" and "B".)
4. The Defendant, FFE TRANSPORTATION SERVICES, INC., has its principal place of business in Texas and has maintained its principal place of business in

Texas at all relevant times. (See Affidavit of Phillip Bond attached as Exhibit "D" and State of Illinois Secretary of State printout attached as Exhibit "E".) FFE Transportation Services, Inc. is currently and since December 15, 2005 has been a Delaware corporation. (See Exhibit "E".)

5. This matter arises out of a motor vehicle collision occurring at or near 701 Central Avenue, Village of University Park, Will County, Illinois. The plaintiff, LEWIS HERRING, filed a Complaint in the Will County, Illinois Circuit Court in the civil action styled Lewis Herring v. Richard E. Marr and FFE Transportation Services, Inc., bearing Will County, Illinois Case No. 07 L 754. (The Complaint is attached as Exhibit "F").<sup>1</sup>

6. The Complaint alleges that as a result of the accident, the plaintiff became sick, sore, lame and disordered, suffered pain and anguish, has become permanently disabled, incurred medical expenses, lost time from his usual occupation and duty and continue such losses for the rest of his life. (Exhibit "F" at Paragraph 6 of Count I and Paragraph 8 of Count II.) Given the nature of these allegations and that fact that there is a workers' compensation lien in the amount of \$93,909.81 (see Exhibit "D"), the movants believe in good faith the amount in controversy exceeds the jurisdictional amount of \$75,000.00, exclusive of interest and costs.

7. There is complete diversity of citizenship between the plaintiff and the defendants.

8. The Summons and Complaint were served on FFE TRANSPORTATION SERVICES, INC., on November 27, 2007. (See second Affidavit of Phillip Bond regarding service attached as Exhibit "G".) Upon information and belief, the Summons and Complaint were served on RICHARD MARR on November 27, 2007.

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<sup>1</sup> Pursuant to 28 U.S.C., § 1446 (a), defendants have attached as Group Exhibit "H", a copy of the plaintiff's Complaint and Summons served upon the movants as of the date of this Notice.

9. This Notice was filed within (30) thirty days of “the receipt by the Defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based.” 28 U.S.C. § 1446(b).

10. As required by 28 U.S.C. § 1446 (d), the movants will promptly serve upon plaintiff’s counsel and file with the Will County Circuit Court a true and correct copy of this Notice.

11. By removing this action, the defendants do not waive any defenses available to them.

12. If any question arises as to the propriety of the removal of this action, the movants request the opportunity to present a brief and oral argument in support of their position that this case is removable.

13. This Notice is signed and in compliance with Rule 11 of the Federal Rules of Civil Procedure.

WHEREFORE, defendants, RICHARD MARR and FFE TRANSPORTATION SERVICES, INC., pray that this Honorable Court retain jurisdiction of the matter pursuant to 28 U.S.C., §§ 1332, 1441, and 1446.

Respectfully Submitted,

SmithAmundsen LLC

s/ Lew R. C. Bricker

Lew R. C. Bricker – Bar Number: 6206641

Attorney for Defendant,

SmithAmundsen LLC

150 North Michigan Avenue, Suite 3300

Chicago, IL 60601

Telephone: (312) 894-3200

Fax: (312) 894-3210

E-Mail: lbricker@osalaw.com

Lew R.C. Bricker  
Sandra J. Engelking  
Attorneys for Defendants,  
Richard Marr and  
FFE Transportation Services, Inc.  
SMITHAMUNDSEN LLC  
150 North Michigan Avenue  
Suite 3300  
Chicago, Illinois 60601  
(312) 894-3200

3006194-LRB/SJE/msw

ARDC: 6206641

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

LEWIS HERRING,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No.
	)	
RICHARD E. MARR and FFE	)	
TRANSPORTATION SERVICES, INC.,	)	
an Illinois Corporation,	)	
	)	
Defendants.	)	

**CERTIFICATE OF SERVICE**

I, Lew R. C. Bricker, hereby certify that on December 24, 2007, a copy of the foregoing **Notice of Removal** was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

**Parties receiving service electronically are as follows:**

Mr. Scott Pyles  
Rathbun, Cservenyak & Kozol, LLC  
320 Executive Drive  
Joliet, IL 60431  
(815) 730-1977

s/ Lew R. C. Bricker  
Lew R. C. Bricker – Bar Number: 6206641  
Attorney for Defendants, Richard E. Marr and  
FFE Transportation Services, Inc.  
SmithAmundsen LLC  
150 North Michigan Avenue, Suite 3300  
Chicago, IL 60601  
Telephone: (312) 894-3200  
Fax: (312) 894-3210  
E-Mail: lbricker@osalaw.com

Attorney for Defendants  
SMITHAMUNDSEN LLC  
150 North Michigan Avenue, Suite 3300  
Chicago, Illinois 60601  
(312) 894-3200

## **EXHIBIT “A”**

### **Illinois Traffic Crash Report**



\* \* 0 9 2 5 0 4 7 \*

FEDERAL SIGNAL OR  
 NARRATIVE (Refer to vehicle by Unit No.)  
 UNIT # 1 WHICH WAS EXITING THE PARKING LOT AT 701  
 CENTRAL AVE (SOUTHWEST), TRUCK LEFT (SOUTH) ONTO CENTRAL  
 AVE, AND TRUCK UNIT #2 WHICH WAS TRAVELING SOUTH  
 ON CENTRAL AVE.

INDICATE NORTH  
 BY ARROW

CENTRAL AVE  
 701 CENTRAL AVE

ADDRESS PD BOX 655 PMS  
 CITY DALLAS, TX  
 STATE TX  
 ZIP 75265  
 ICDOT PERMIT # 109745  
 ICDOT 108207  
 HAZARDOUS MATERIALS: 1-Digit  
 PLACARDED? ☐ Yes ☒ No  
 Inspection form completed? ☐ Yes ☒ No  
 HAZARDOUS cargo released from truck? ☐ Yes ☒ No  
 Violation of HAZMAT regs. contribute to crash? ☐ Yes ☒ No  
 Violation of MCS regs. contribute to crash? ☐ Yes ☒ No  
 Inspection form completed? ☐ Yes ☒ No  
 HAZMAT ☐ Yes ☒ No  
 Out of Service? ☐ Yes ☒ No  
 Out of Service? ☐ Yes ☒ No  
 ICDOT PERMIT # 109745  
 TRAILER WIDTH(S) 8'6" Over 10'2"  
 Trailer 1 ☐ Trailer 2 ☐  
 TRAILER LENGTH(S) - ft 53  
 NO OF AXLES 5  
 IN CITY OF / NEAREST CITY: \_\_\_\_\_ Miles N E S W of: \_\_\_\_\_  
 VEHICLE CONFIGURATION: \_\_\_\_\_ CARGO BODY TYPE: \_\_\_\_\_ LOAD TYPE: \_\_\_\_\_  
 INSERT APPLICABLE NUMBERS FROM CHOICES ON BACK OF TEMPLATE TWO  
 CARRIER NAME SAUCO CARRIERS UNIT NO. 2  
 ADDRESS 1085 N. CHESTNUT RD  
 CITY CARLETON STATE TX ZIP 75005  
 ID NUMBER 192935 ICDOT 153311  
 HAZARDOUS MATERIALS: 1-Digit  
 PLACARDED? ☐ Yes ☒ No  
 Inspection form completed? ☐ Yes ☒ No  
 HAZARDOUS cargo released from truck? ☐ Yes ☒ No  
 Violation of HAZMAT regs. contribute to crash? ☐ Yes ☒ No  
 Violation of MCS regs. contribute to crash? ☐ Yes ☒ No  
 Inspection form completed? ☐ Yes ☒ No  
 HAZMAT ☐ Yes ☒ No  
 Out of Service? ☐ Yes ☒ No  
 Out of Service? ☐ Yes ☒ No  
 ICDOT PERMIT # 109745  
 TRAILER WIDTH(S) 8'6" Over 10'2"  
 Trailer 1 ☐ Trailer 2 ☐  
 TRAILER LENGTH(S) - ft 53  
 NO OF AXLES 5  
 IN CITY OF / NEAREST CITY: \_\_\_\_\_ Miles N E S W of: \_\_\_\_\_  
 VEHICLE CONFIGURATION: \_\_\_\_\_ CARGO BODY TYPE: \_\_\_\_\_ LOAD TYPE: \_\_\_\_\_  
 INSERT APPLICABLE NUMBERS FROM CHOICES ON BACK OF TEMPLATE TWO



## **EXHIBIT “B”**

**Affidavit of Sandra J. Engelking**

3006194-LRB/SJE/TNP

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

LEWIS HERRING, )  
 )  
Plaintiff, )  
 )  
v. ) No.  
 )  
 )  
RICHARD MARR and )  
FFE TRANSPORTATION SERVICES, INC.)  
 )  
 )  
Defendants. )

**AFFIDAVIT OF SANDRA J. ENGELKING**

I, Sandra J. Engelking, first being sworn, do depose and state:

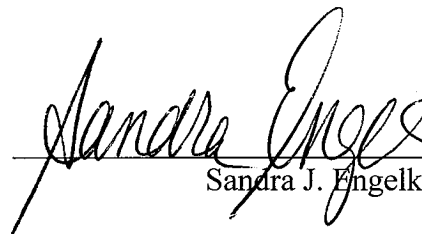
1. I am an attorney with SmithAmundsen LLC and serving as an attorney for Richard Marr and FFE Transportation Services, Inc. in the matter of Lewis Herring v. Richard Marr and FFE Transportation Services, Inc., originally filed in the Circuit Court of Will County, Illinois, No. 07 L 754.

2. I am of sound mind and make this affidavit based upon my own personal knowledge.

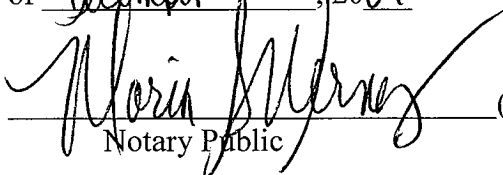
3. I have conducted a thorough investigation into the matters surrounding the aforementioned case and have personal knowledge, gained through this investigation, of the facts set forth in this affidavit.

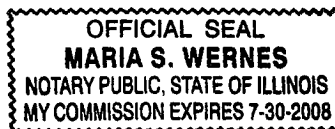
4. After investigation, I believe that the plaintiff, Lewis Herring, was a resident and citizen of Norman Park, Georgia on December 15, 2005 (as provided by the Illinois Traffic Crash Report), and is currently a resident and citizen of Melbourne, Florida (as provided by the LexisNexis public records background search attached as Exhibit "1").

**FURTHER AFFIANT SAYETH NOT.**

  
Sandra J. Engelking

Subscribed and Sworn to  
before me this 20<sup>th</sup> day  
of December, 2007

  
Notary Public (seal)



DPPA - 1. Litigation

GLBA - 7. I Do Not Have a Permissible Use

Subject Summary | Others Using SSN | Address Summary (20) | Voter Registrations (1)  
Licenses (2) | Personal Property (3) | Real Property | Bankruptcies | Judgments & Liens (3)  
Relatives (19) | Associated Entities (5) | Neighbors (5) | Sources (49)

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Full Name	Address	County	Phone
HERRING, LOUIS A	801 BROTHERS AVE MELBOURNE, FL 32901-5514 COUNTY: BREVARD	BREVARD	(321) 722-2053



## **EXHIBIT “C”**

**Affidavit of Richard Marr**

3006194-LRB/SJE/TNP

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

LEWIS HERRING,

Plaintiff,

v.

NO. 07 L 754

RICHARD MARR and  
FFE TRANSPORTATION SERVICES, INC.)

Defendants.

**AFFIDAVIT OF RICHARD MARR**

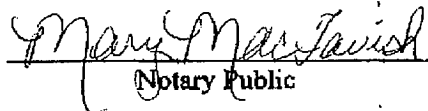
I, Richard Marr, being duly sworn on oath, do offer and state that if I am called upon to testify under oath, I could truly, competently and on personal knowledge, state as follows:

1. My name is Richard Marr.
2. I currently reside in Grand Junction, Colorado, and am a citizen of the State of Colorado.
3. On December 15, 2005, I resided in the State of Colorado.

**FURTHER AFFIANT SAYETH NOT.**

  
Richard Marr

Subscribed and Sworn to  
before me this 21<sup>st</sup> day  
of December, 2007

 (seal)  
Notary Public





## **EXHIBIT “D”**

**Affidavit of Phillip Bond**

3006194-LRB/SJE/TNP

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

LEWIS HERRING,

Plaintiff,

v.

RICHARD MARR and  
FFE TRANSPORTATION SERVICES, INC.)

Defendants. )

NO. 07-222

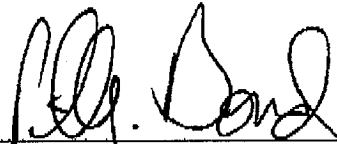
**AFFIDAVIT OF PHILLIP BOND**

I, Phillip Bond, being duly sworn on oath, do offer and state that if I am called upon to testify under oath, I could truly, competently and on personal knowledge, state as follows:

1. I am a Litigation Manager for Frozen Food Express Industries, Inc.
2. Frozen Food Express Industries, Inc. is the parent company of several entities, including FFE Transportation Services, Inc.
3. Frozen Food Express Industries, Inc. currently maintains and has maintained its principal place of business in Texas since and before December 15, 2005.
4. FFE Transportation Services, Inc. currently maintains and has maintained its principal place of business in Texas since and before December 15, 2005.
5. On December 15, 2005 and as of today, according to the business records of Frozen Food Industries, Inc., Richard Marr was and is a resident of Colorado.

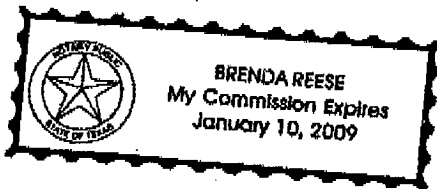
6. Upon information and belief based on my pre-suit investigation, the workers' compensation lien in this matter is \$93,909.81.

**FURTHER AFFLIANT SAYETH NOT.**

  
\_\_\_\_\_  
Phillip Bond

Subscribed and Sworn to  
before me this 20<sup>th</sup> day  
of December, 2007

 (seal)  
Notary Public



## **EXHIBIT “E”**

**State of Illinois Secretary of State Printout**



SERVICES PROGRAMS PRESS PUBLICATIONS DEPARTMENTS CONTACT

## CORPORATION FILE DETAIL REPORT

Entity Name	FFE TRANSPORTATION SERVICES, INC.	File Number	56797807
Status	GOODSTANDING		
Entity Type	CORPORATION	Type of Corp	FOREIGN BCA
Qualification Date (Foreign)	04/14/1992	State	DELAWARE
Agent Name	JOHN P BRITVICH SR	Agent Change Date	06/23/1999
Agent Street Address	7451 W 100TH PLACE	President Name & Address	STONE M STUBBS JR 158 JELICO CIRCLE SOUTHLAKE TX 76092
Agent City	BRIDGEVIEW	Secretary Name & Address	LEONARD W BARTHOLOMEW 6319 OAKLEAF RD DALLAS TX 75248
Agent Zip	60455	Duration Date	PERPETUAL
Annual Report Filing Date	04/05/2007	For Year	2007

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(One Certificate per Transaction)

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## **EXHIBIT “F”**

### **Complaint**

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL DISTRICT  
WILL COUNTY, ILLINOIS

LEWIS HERRING,

Plaintiffs,

v.

RICHARD E. MARR and  
FFE TRANSPORTATION SERVICES, INC.,  
an Illinois Corporation,

Defendants.

07 L

NO.

FILED  
CLERK - 9 PM 3:34  
ILLINOIS CIRCUIT COURT  
WILL COUNTY, ILLINOIS

COMPLAINT

COUNT I

NOW COMES the Plaintiff, LEWIS HERRING, by his attorneys, Rathbun Cserenyak & Kozol, LLC, and complaining of the Defendant, RICHARD E. MARR, states as follows:

1. That on or about December 15, 2005, the Plaintiff, LEWIS HERRING, was the operator of a motor vehicle that was traveling southbound on Central Avenue in the Village of University Park, County of Will, State of Illinois.

2. That at said time and place, the Defendant, RICHARD E. MARR, was the operator of a motor vehicle that was exiting the parking lot westbound of the SOLO Cup Company, at 701 Central Avenue, Village of University Park, County of Will, State of Illinois.

3. That at all times herein it was the duty of the Defendant, RICHARD E. MARR, to exercise ordinary care toward all persons traveling upon or near the roadway, including the Plaintiff, LEWIS HERRING.

4. That at said time and place, the Defendant, RICHARD E. MARR, was guilty of one or more of the following acts of negligence and carelessness, to wit:

- a. Drove his vehicle upon a public way at a speed which was greater than was reasonable and proper with regard to traffic conditions and the use of the roadway, contrary to 625 ILCS 5/11-601;
- b. Drove his vehicle upon a public way at a speed which endangered the safety of persons, contrary to 625 ILCS 5/11-601;
- c. Drove his vehicle upon a public way at a speed which endangered the safety of property, contrary to 625 ILCS 5/11-601;

Initial case management set for  
2-27-08 at: 9 AM

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JI

- d. Failed to decrease speed so as to avoid colliding with a vehicle on a public way, contrary to 625 ILCS 5/11-601;
- e. Failed to yield the right-of-way within an intersection, contrary to 625 ILCS 5/11-904;
- f. Failed to yield at a stop intersection, contrary to 625 ILCS 5/11-1204;
- g. Failed to keep a proper lookout for other vehicles;
- h. Failed to see and observe the Plaintiff when in the exercise of reasonable care he should have seen the Plaintiff's vehicle;
- i. Failed to maintain and keep proper control of his vehicle;
- j. Failed to stop his motor vehicle so as to avoid a collision although he saw or should have seen that it was impending and had ample opportunity to avoid it.

5. That as a direct and proximate cause of one or more of the foregoing acts of negligence and carelessness on the part of the Defendant, RICHARD E. MARR, the vehicle operated by him did collide violently with the vehicle operated by the Plaintiff.

6. That as a direct and proximate result the Plaintiff, LEWIS HERRING, became sick, sore, lame and disordered, suffered pain and anguish, has become permanently disabled, incurred medical expenses, lost time from his usual occupation and duty and will continue such losses for the rest of his life.

ALL TO THE DAMAGE of the Plaintiff, LEWIS HERRING, in a sum in excess of FIFTY THOUSAND AND NO\100THS (\$50,000.00) DOLLARS.

WHEREFORE the Plaintiff, LEWIS HERRING, prays for judgment in his favor and against the Defendant, RICHARD E. MARR, in a sum in excess of FIFTY THOUSAND AND NO\100THS (\$50,000.00) DOLLARS, together with costs of suit.

#### COUNT II

NOW COMES the Plaintiff, LEWIS HERRING, by his attorneys, Rathbun Cservenyak & Kozol, LLC, and complaining of the Defendant, FFE TRANSPORTATION SERVICES, INC., an Illinois Corporation (hereinafter referred to as "FFE TRANSPORTATION SERVICES, INC."), states as follows:

1. That on or about December 15, 2005, and for some time prior thereto, the Defendant, FFE TRANSPORTATION SERVICES, INC., was a company doing business at 7451 W. 100th Place in Bridgeview, County of Cook, State of Illinois.

2. That on or about December 15, 2005, the Defendant, FFE TRANSPORTATION SERVICES, INC., employed RICHARD E. MARR as an over the road truck driver using FFE Transportation Services vehicle, namely a 2003 Freightliner, vehicle identification number 1FUJBOCGX3LJ52821.

3. That said motor vehicle was then and there operated, and/or controlled by its duly authorized agent and/or servant, RICHARD E. MARR, and that on or about December 15, 2005, he operated said motor vehicle and was exiting the parking lot westbound of the SOLO Cup Company, at 701 Central Avenue, Village of University Park, County of Will, State of Illinois.

4. That on or about December 5, 2007, the Plaintiff, LEWIS HERRING, was the operator a motor vehicle that was traveling southbound on Central Avenue in the Village of University Park, County of Will, State of Illinois.

5. That at all times herein it was the duty of the Defendant, FFE TRANSPORTATION SERVICES, INC., by and through its agent, servant or employee, RICHARD E. MARR, to exercise ordinary care toward all persons traveling upon or near the roadway, including the Plaintiff, LEWIS HERRING.

6. That the Defendant, FFE TRANSPORTATION SERVICES, INC., by and through its agent, servant and/or employee, was guilty of one or more of the following acts of negligence and carelessness, to wit:

- a. Drove said vehicle upon a public way at a speed which was greater than was reasonable and proper with regard to traffic conditions and the use of the roadway, contrary to 625 ILCS 5/11-601;
- b. Drove said vehicle upon a public way at a speed which endangered the safety of persons, contrary to 625 ILCS 5/11-601;
- c. Drove said vehicle upon a public way at a speed which endangered the safety of property, contrary to 625 ILCS 5/11-601;
- d. Failed to decrease speed so as to avoid colliding with a vehicle on a public way, contrary to 625 ILCS 5/11-601;
- e. Failed to yield the right-of-way within an intersection, contrary to 625 ILCS 5/11-904;
- f. Failed to yield at a stop intersection, contrary to 625 ILCS 5/11-1204;

11/13/07 WCCB

- g. Failed to keep a proper lookout for other vehicles;
- h. Failed to see and observe the Plaintiff when in the exercise of reasonable care he should have seen the Plaintiff's vehicle;
- i. Failed to maintain and keep proper control of said vehicle;
- j. Failed to stop said motor vehicle so as to avoid a collision although he saw or should have seen that it was impending and had ample opportunity to avoid it.

7. That as a direct and proximate cause of one or more of the foregoing acts of negligence and carelessness on the part of the Defendant, FFE TRANSPORTATION SERVICES, INC., by and through its agent, servant and/or employee, RICHARD E. MARR, said vehicle did collide violently with the motor vehicle operated by the Plaintiff, LEWIS HERRING.

8. That as a direct and proximate result the Plaintiff, LEWIS HERRING, became sick, sore, lame and disordered, suffered pain and anguish, has become permanently disabled, incurred medical expenses, lost time from his usual occupation and duty and will continue such losses for the rest of his life.

ALL TO THE DAMAGE of the Plaintiff, LEWIS HERRING, in a sum in excess of FIFTY THOUSAND AND NO\100THS (\$50,000.00) DOLLARS.

WHEREFORE the Plaintiff, LEWIS HERRING, prays for judgment in his favor and against the Defendant, FFE TRANSPORTATION SERVICES, INC., an Illinois Corporation, in a sum in excess of FIFTY THOUSAND AND NO\100THS (\$50,000.00) DOLLARS, together with costs of suit.

LEWIS HERRING, Plaintiff,

BY: 

SCOTT PYLES

One of the Attorneys for the Plaintiffs

SCOTT PYLES / 6208185  
Rathbun Cservenyak & Kozol, LLC  
320 Executive Drive  
Joliet, IL 60431  
(815) 730-1977



## **EXHIBIT “G”**

### **Second Affidavit of Phillip Bond Regarding Service**

3006194-LRB/SJE/TNP

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

LEWIS HERRING,

Plaintiff,

v.

RICHARD MARR and  
FFE TRANSPORTATION SERVICES, INC.)

Defendants. )

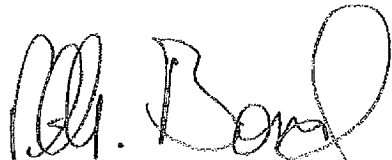
NO. 07 L 754

AFFIDAVIT OF PHILLIP BOND


I, Phillip Bond, being duly sworn on oath, do offer and state that if I am called upon to testify under oath, I could truly, competently and on personal knowledge, state as follows:

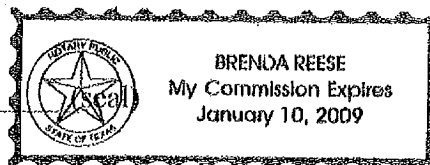
1. Summons and Complaint were served on FFE Transportation Services, Inc. on November 27, 2007.

FURTHER AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
Phillip Bond

Subscribed and Sworn to  
before me this 21<sup>st</sup> day  
of December, 20 07

  
\_\_\_\_\_  
Notary Public



**GROUP EXHIBIT “H”**

**Plaintiff’s Complaint, Summons and All Other Pleadings Served Upon the  
Movants as of the Date of this Notice**

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL DISTRICT  
WILL COUNTY, ILLINOIS

LEWIS HERRING,

Plaintiffs,

v.

RICHARD E. MARR and  
FFE TRANSPORTATION SERVICES, INC.,  
an Illinois Corporation,

Defendants.

NO.

07 L 754

SUMMONS

To each defendant: FFE Transportation Services, Registered Agent  
John P. Britvich Sr.  
7451 W 100<sup>th</sup> Place  
Bridgeview IL 60455

You are summoned and required to file an answer in this case, or otherwise file your appearance in the Office of the Clerk of this Court Will County Courthouse building, 14 W. Jefferson, Joliet, Illinois, within 30 days after service of this summons, not counting the day of service. IF YOU FAIL TO DO SO, A JUDGEMENT OR DECREE BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF ASKED IN THE COMPLAINT.

To the Officer:

This summons must be returned by the officer or other person to whom it was given for service, with the endorsement of service and fees, if any, immediately after service. If service can not be made, summons shall be returned so endorsed.

This summons may not be served later than 30 days after its date.

(Seal of Court)

WITNESS NOV 09 2007  
PAMELA J MCGUIRE

(Clerk of the Circuit Court)

By: \_\_\_\_\_

Plaintiff's Attorney:

Name: Scott Pyles / ARDC #6208185

Attorney for: Plaintiff

Address: 3260 Executive Drive  
Joliet, IL 60431

Telephone: (815) 730-1977

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL DISTRICT  
WILL COUNTY, ILLINOIS

LEWIS HERRING,

Plaintiffs,

v.

RICHARD E. MARR and  
FFE TRANSPORTATION SERVICES, INC.,  
an Illinois Corporation,

Defendants. )

07 L

NO.

FILED  
CLERK - 9 PM 3:34  
WILL COUNTY, ILLINOIS

COMPLAINT

COUNT I

NOW COMES the Plaintiff, LEWIS HERRING, by his attorneys, Rathbun Cservenyak & Kozol, LLC, and complaining of the Defendant, RICHARD E. MARR, states as follows:

1. That on or about December 15, 2005, the Plaintiff, LEWIS HERRING, was the operator of a motor vehicle that was traveling southbound on Central Avenue in the Village of University Park, County of Will, State of Illinois.
2. That at said time and place, the Defendant, RICHARD E. MARR, was the operator of a motor vehicle that was exiting the parking lot westbound of the SOLO Cup Company, at 701 Central Avenue, Village of University Park, County of Will, State of Illinois.
3. That at all times herein it was the duty of the Defendant, RICHARD E. MARR, to exercise ordinary care toward all persons traveling upon or near the roadway, including the Plaintiff, LEWIS HERRING.
4. That at said time and place, the Defendant, RICHARD E. MARR, was guilty of one or more of the following acts of negligence and carelessness, to wit:
  - a. Drove his vehicle upon a public way at a speed which was greater than was reasonable and proper with regard to traffic conditions and the use of the roadway, contrary to 625 ILCS 5/11-601;
  - b. Drove his vehicle upon a public way at a speed which endangered the safety of persons, contrary to 625 ILCS 5/11-601;
  - c. Drove his vehicle upon a public way at a speed which endangered the safety of property, contrary to 625 ILCS 5/11-601;

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- d. Failed to decrease speed so as to avoid colliding with a vehicle on a public way, contrary to 625 ILCS 5/11-601;
- e. Failed to yield the right-of-way within an intersection, contrary to 625 ILCS 5/11-904;
- f. Failed to yield at a stop intersection, contrary to 625 ILCS 5/11-1204;
- g. Failed to keep a proper lookout for other vehicles;
- h. Failed to see and observe the Plaintiff when in the exercise of reasonable care he should have seen the Plaintiff's vehicle;
- i. Failed to maintain and keep proper control of his vehicle;
- j. Failed to stop his motor vehicle so as to avoid a collision although he saw or should have seen that it was impending and had ample opportunity to avoid it.

5. That as a direct and proximate cause of one or more of the foregoing acts of negligence and carelessness on the part of the Defendant, RICHARD E. MARR, the vehicle operated by him did collide violently with the vehicle operated by the Plaintiff.

6. That as a direct and proximate result the Plaintiff, LEWIS HERRING, became sick, sore, lame and disordered, suffered pain and anguish, has become permanently disabled, incurred medical expenses, lost time from his usual occupation and duty and will continue such losses for the rest of his life.

ALL TO THE DAMAGE of the Plaintiff, LEWIS HERRING, in a sum in excess of FIFTY THOUSAND AND NO\100THS (\$50,000.00) DOLLARS.

WHEREFORE the Plaintiff, LEWIS HERRING, prays for judgment in his favor and against the Defendant, RICHARD E. MARR, in a sum in excess of FIFTY THOUSAND AND NO\100THS (\$50,000.00) DOLLARS, together with costs of suit.

#### COUNT II

NOW COMES the Plaintiff, LEWIS HERRING, by his attorneys, Rathbun Cservenyak & Kozol, LLC, and complaining of the Defendant, FFE TRANSPORTATION SERVICES, INC., an Illinois Corporation (hereinafter referred to as "FFE TRANSPORTATION SERVICES, INC."), states as follows:

1. That on or about December 15, 2005, and for some time prior thereto, the Defendant, FFE TRANSPORTATION SERVICES, INC., was a company doing business at 7451 W. 100th Place in Bridgeview, County of Cook, State of Illinois.

2. That on or about December 15, 2005, the Defendant, FFE TRANSPORTATION SERVICES, INC., employed RICHARD E. MARR as an over the road truck driver using FFE Transportation Services vehicle, namely a 2003 Freightliner, vehicle identification number 1FUJBOCGX3LJ52821.

3. That said motor vehicle was then and there operated, and/or controlled by its duly authorized agent and/or servant, RICHARD E. MARR, and that on or about December 15, 2005, he operated said motor vehicle and was exiting the parking lot westbound of the SOLO Cup Company, at 701 Central Avenue, Village of University Park, County of Will, State of Illinois.

4. That on or about December 5, 2007, the Plaintiff, LEWIS HERRING, was the operator a motor vehicle that was traveling southbound on Central Avenue in the Village of University Park, County of Will, State of Illinois.

5. That at all times herein it was the duty of the Defendant, FFE TRANSPORTATION SERVICES, INC., by and through its agent, servant or employee, RICHARD E. MARR, to exercise ordinary care toward all persons traveling upon or near the roadway, including the Plaintiff, LEWIS HERRING.

6. That the Defendant, FFE TRANSPORTATION SERVICES, INC., by and through its agent, servant and/or employee, was guilty of one or more of the following acts of negligence and carelessness, to wit:

- a. Drove said vehicle upon a public way at a speed which was greater than was reasonable and proper with regard to traffic conditions and the use of the roadway, contrary to 625 ILCS 5/11-601;
- b. Drove said vehicle upon a public way at a speed which endangered the safety of persons, contrary to 625 ILCS 5/11-601;
- c. Drove said vehicle upon a public way at a speed which endangered the safety of property, contrary to 625 ILCS 5/11-601;
- d. Failed to decrease speed so as to avoid colliding with a vehicle on a public way, contrary to 625 ILCS 5/11-601;
- e. Failed to yield the right-of-way within an intersection, contrary to 625 ILCS 5/11-904;
- f. Failed to yield at a stop intersection, contrary to 625 ILCS 5/11-1204;

- g. Failed to keep a proper lookout for other vehicles;
- h. Failed to see and observe the Plaintiff when in the exercise of reasonable care he should have seen the Plaintiff's vehicle;
- i. Failed to maintain and keep proper control of said vehicle;
- j. Failed to stop said motor vehicle so as to avoid a collision although he saw or should have seen that it was impending and had ample opportunity to avoid it.

7. That as a direct and proximate cause of one or more of the foregoing acts of negligence and carelessness on the part of the Defendant, FFE TRANSPORTATION SERVICES, INC., by and through its agent, servant and/or employee, RICHARD E. MARR, said vehicle did collide violently with the motor vehicle operated by the Plaintiff, LEWIS HERRING.

8. That as a direct and proximate result the Plaintiff, LEWIS HERRING, became sick, sore, lame and disordered, suffered pain and anguish, has become permanently disabled, incurred medical expenses, lost time from his usual occupation and duty and will continue such losses for the rest of his life.

ALL TO THE DAMAGE of the Plaintiff, LEWIS HERRING, in a sum in excess of FIFTY THOUSAND AND NO\100THS (\$50,000.00) DOLLARS.

WHEREFORE the Plaintiff, LEWIS HERRING, prays for judgment in his favor and against the Defendant, FFE TRANSPORTATION SERVICES, INC., an Illinois Corporation, in a sum in excess of FIFTY THOUSAND AND NO\100THS (\$50,000.00) DOLLARS, together with costs of suit.

LEWIS HERRING, Plaintiff,

BY: 

SCOTT PYLES

One of the Attorneys for the Plaintiffs

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